

Amendments to House Bill No. 74
1st Reading Copy

Requested by Representative Margaret Campbell

For the House Taxation Committee

Prepared by Jeff Martin
January 26, 2007 (9:05am)

1. Page 1, line 30.

Following: "conditions."

Insert: "(1)"

2. Page 2, line 1 through line 3.

Strike: ":" on line 1 through "(2)" on line 3

Explanation - removes the \$600 minimum royalty payment that would be subject to withholding -- see amendment 3

3. Page 2.

Following: line 10

Insert: "(2) If the royalty payment made to a royalty owner subject to withholding under the provisions of [sections 1 through 12] is less than \$166 for the current withholding period or is less than \$2,000 if the payment is annualized, then the department may grant a remittor's request to forego withholding the tax from the royalty payment made to that royalty owner for the current withholding period or, if applicable, the royalty payments for the annual period."

Explanation - allows no withholding if royalty payment is less than \$166 for the current withholding period or \$2,000 when annualized

4. Page 2, line 12.

Following: "statements"

Insert: "-- liability mitigation"

5. Page 2, line 20.

Strike: "Each"

Insert: "Subject to subsections (3)(b) and (6), each"

6. Page 2.

Following: line 26

Insert: "(b) If a corporate remittor violates the provisions of [sections 1 through 12], the department shall first apply the provisions of [section 11] against the corporation. If the corporation fails to remedy the violation, then the department shall apply the provisions of [section 11]"

against each responsible corporate officer as determined in subsections (3) (a) and (3) (c) ."

Renumber: subsequent subsection

Explanation - requires the Department of Revenue to attempt to enforce provisions against corporation before enforcing against responsible corporate officers

7. Page 3, line 3.

Strike: "For"

Insert: "Subject to subsection (6), for"

Explanation - amendment 7 refers to partners; members of an LLC; a single-member LLC; and a manager of manager-managed LLC who can eliminate or reduce individual liability under the provisions of amendment 8

8. Page 3.

Following: line 14

Insert: "(6) The liability of an individual described in subsection (3) or (5) for taxes, penalties, and interest is released if and to the extent that the amount required to be deducted and withheld under [sections 1 through 12] is deposited in a separate account that is:

(a) established in a bank, as defined in 32-1-102, located in Montana;

(b) designated as a special fund in trust for the state; and

(c) payable to the department."

Renumber: subsequent subsections

Explanation - method to eliminate or minimize individual liability

9. Page 4, line 24.

Following: "12] ."

Insert: "The amounts deducted and withheld and paid to the state in compliance or intended compliance with [section 1 through 12] are not subject to the provisions of section 82-10-103."

Explanation - 82-10-103 relates to obligation to pay royalties. A remittor would not be required to pay interest on royalties withheld as tax and a royalty owner could not sue in district court to force payment of royalties withheld as tax.

10. Page 5.

Following: line 10

Insert: "(3) The department shall make the forms described in [section 6] and this section available no later than

November 15, 2007."

11. Page 5, line 18.

Following: "remitter that"

Insert: "purposely"

- END -